

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No CR 14-415 JP

ANTHONY CHEUN, et al.,

Defendant.

UNOPPOSED MOTION TO CONTINUE TRIAL
SET FOR OCTOBER 6, 2014

COMES NOW defendant, Anthony Cheun, by and through his counsel of record, Erlinda O. Johnson, and hereby respectfully moves this Court to continue the trial currently set for October 6, 2014, and as reasons therefore submits the following:

1. Trial is currently set for October 6, 2014;
2. On January 30, 2014, Messrs. Cheun and Maddaleni were arrested for Possession with intent to distribute a controlled substance, aiding and abetting and conspiracy. (doc. 15)
3. On January 30, 2014, the Honorable Robert Hayes Scott issued an order detaining Messrs. Cheun and Maddaleni pending trial. (doc. 8)
4. On January 30, 2014, the United States District Court appointed Daniel J. Tallon, to represent Mr. Cheun. (doc. 13)
5. On February 12, 2014, a federal grand jury returned a 3 count indictment charging Messrs. Cheun and Maddaleni with possession with intent to distribute a controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A); possession

with intent to distribute a controlled substance in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), Conspiracy in violation of 21 U.S.C. § 846, and Aiding and Abetting in violation 18 U.S.C. § 2.

6. On April 10, 2014, undersigned counsel was retained to represent Mr. Cheun.

7. On or about April 21, 2014, undersigned counsel received a copy of Mr. Tallon's file.

8. On April 29, 2014, Mr. Cheun was ordered released to the third party custody of Annie Cheun. As part of his release, Mr. Cheun is currently attending substance abuse treatment.

9. Undersigned counsel reviewed the discovery and filed a motion to suppress evidence. That motion is currently pending before the court.

10. A hearing on Mr. Cheun's motion to suppress evidence is scheduled to be heard by this Court on September 23, 2014.

11. The parties anticipate this Court may take the matter under advisement and issue a decision after September 23, 2014. Therefore, necessitating a continuance of the October 6, 2014, trial.

12. Once the Court issues its decision on Mr. Cheun's motion to suppress evidence, the parties anticipate they will need additional time within which to resolve the case or prepare for a trial.

13. A proposed 60-day continuance is necessary to allow the parties ample time to litigate the pre-trial issues pending before the court and for the Court to rule on the motion.

14. The requested continuance would ensure Mr. Cheun's Sixth Amendment rights are not jeopardized as his defense counsel needs the requested time to thoroughly litigate the pending pre-trial motions. The requested continuance is not simply for the purpose of new defenses counsel to read the discovery. Its purpose is for counsel to render effective representation. *See United States v. Toombs*, 574 F.3d 1262, 1273-74 (10th Cir. 2009)

15. Counsel for Mr. Cheun respectfully requests this Court continue the October 6, 2014, trial by 60 days to December 2014.

16. Counsel for the government, AUSA William J. Pflugrath , does not object to a continuance of the October 6, 2014, trial.

17. Counsel for Mr. Maddaleni, John Robbenhaar does not object to a continuance of the October 6, 2014, trial.

18. The needs of justice that would be served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial pursuant to 18 U.S.C. §§ 3161(h)(1)(D) and (H), as there is a pretrial motion currently pending before the court on defendant's motion to suppress evidence and said decision is critical to the parties' determination of whether the matter will proceed to trial. Additionally, the needs of justice that would be served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial pursuant to 18 U.S.C. § 3161(h)(7)(A).

19. Wherefore, for the foregoing reasons, Mr. Cheun respectfully requests this Court issue an order continuing the October 6, 2014 trial to December 2014.

Respectfully Submitted,

electronically filed 9/22/14

Erlinda O. Johnson

Attorney for Anthony Cheun

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I hereby certify that a true and correct copy of the foregoing pleading was electronically served on all counsel of record upon this 22nd day of September 2014, via the Court's CM/ECF automated filing system.

/s/

Erlinda O. Johnson
Attorney at Law